UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
--X
                                                                      :
HORIZON GROUP USA, INC.,   :
                                                                      :
                                       Plaintiff,   :
                                                                      :   22 Civ. 1241 (JPC)
            -v-   :
                                                                      :   ORDER
                                                                      :
INNOVATIVE DESIGNS, LLC,   :
                                                                      :
                                       Defendant.   :
                                                                      :
--X

JOHN P. CRONAN, United States District Judge:

Plaintiff filed the Complaint on February 14, 2022, *see* Dkt. 1, but the docket reflects that the complaint was never served on Defendant. Under Federal Rule of Civil Procedure 4(m), "[i]f a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time." Fed. R. Civ. P. 4(m). "But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period." *Id.*

Under Rule 4(m), "notice to the plaintiff must be given prior to a *sua sponte* dismissal." *Thompson v. Maldonado*, 309 F.3d 107, 110 (2d Cir. 2002). So on May 24, 2022, the Court ordered Plaintiff to advise the Court by May 31, 2022 "why plaintiff has failed to serve the summons and complaint within the 90-day period, or, if the defendant has been served, when and in what manner such service was made." Dkt. 6. The Court warned Plaintiff that "[i]f the Court does not receive a letter by May 31, 2022, showing good cause why such service was not made within the 90 days, the Court will dismiss the case." *Id.* To date, Plaintiff has neither filed the required the letter showing good cause why service was not made nor filed proof of service on the docket. Because

Plaintiff has not shown good cause to excuse its failure to comply with Rule 4(m), the Court

dismisses this case without prejudice.

The Clerk of the Court is respectfully directed to close this case and to enter judgment.

SO ORDERED.

Dated: July 28, 2022
       New York, New York

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          JOHN P. CRONAN
     United States District Judge